

FBRANN & ISAACSON

DAVID W. BERTONI (admitted *pro hac vice*)

dbertoni@brannlaw.com

DAVID SWETNAM-BURLAND (State Bar No. 226216)

dsb@brannlaw.com

EAMONN R.C. HART (admitted *pro hac vice*)

ehart@brannlaw.com

184 Main Street

P.O. Box 3070

Lewiston, ME 04243-3070

Tel.: (207) 786-3566

Fax: (207) 783-9325

LAW OFFICES OF RICHARD PACTER

RICHARD PACTER (State Bar No. 120069)

richard@pachterlaw.com

555 University Avenue, Suite 200

Sacramento CA 95825

Tel.: (916) 485-1617

Fax: (916) 379-7838

Attorneys for Defendant NaviStone, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

JEREMIAH REVITCH,

Plaintiff; Counterclaim
Defendant,

v.

NEW MOOSEJAW, LLC

Defendant,

NAVISTONE, INC.,

Defendant; Counterclaimant.

Case No. 3:18-cv-06827-VC

**DEFENDANT NAVISTONE, INC.'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL**

Hearing Date: March 3, 2021

Time: 2:00 pm

Judge: Hon. Vince Chhabria

Pursuant to Civ. L.R. 7-11 and 79-5, Defendant NaviStone, Inc. (“NaviStone”) submits this Administrative Motion to File Under Seal. NaviStone respectfully requests leave to file under seal a portion of a settlement agreement (“Settlement Agreement”) between Plaintiff Jeremiah Revitch and Defendant New Moosejaw, LLC (“Moosejaw”) and those portions of NaviStone’s brief in opposition to Plaintiff and Moosejaw’s request for dismissal (ECF 155) that recite or describe the specific terms of the agreement.

Legal Standard. Pursuant to Paragraph 30 of the Court’s Standing Order for Civil Cases, NaviStone submits that the presumptive compelling reasons standard applies as the relief Plaintiff and Moosejaw request is dispositive and directly related to the viability of Plaintiff’s claims against NaviStone and NaviStone’s counterclaim against Plaintiff. *See Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016).

Pursuant to Civ. L.R. 79-5(e), NaviStone states that Plaintiff and Moosejaw are the Designating Parties.

Request to Seal. Plaintiff and Moosejaw have filed a joint request for dismissal, predicated on what they characterize as “a pre-certification individual settlement of this action.” ECF 155 at 1. In their request, “Plaintiff and Moosejaw contend that, as a result of the settlement, [NaviStone’s] counterclaim is now moot.” *Id.* at 2 (brackets added). While NaviStone does not oppose the dismissal of Plaintiff’s claims against Moosejaw, NaviStone *does* oppose a dismissal of the claims against NaviStone, which is not a party to the settlement, and the dismissal of NaviStone’s counterclaim against Plaintiff. NaviStone submits that Fed. R. Civ. P. 41(a)(2) precludes dismissal of the claims against NaviStone to the extent that dismissal would moot its counterclaim, and denies that the terms of the settlement between Plaintiff and Moosejaw moot NaviStone’s counterclaim against Plaintiff.

In order for the Court to decide these issues, NaviStone requests leave to file under seal a certain portion of the Settlement Agreement (Exhibit B to the David Swetnam-Burland

Declaration), which Moosejaw and Plaintiff have designated as confidential, which sets out what Plaintiff and Moosejaw have characterized in their dismissal request as “a general release from the named individual plaintiff,” ECF 155 at 2—a characterization NaviStone disputes—and which purports to confer benefits on or bind NaviStone. NaviStone further requests leave to file under seal those portions of its brief in opposition to Plaintiff and Moosejaw’s request for dismissal that recite or describe the specific terms of the Settlement Agreement.

While NaviStone has no objection to submitting the Settlement Agreement to the Court in its entirety under seal to preserve its confidentiality, Moosejaw has specifically requested that NaviStone submit only a portion of the Settlement Agreement with its opposition brief, and NaviStone has acceded to that Designating Party’s request.

Based on the foregoing and as further set out in the accompanying David Bertoni Declaration, NaviStone respectfully requests that the Court seal the submitted portions of the Settlement Agreement and NaviStone’s brief that recite or describe its terms. Specifically, NaviStone requests that the Court file under seal:

Document	Portion to Be Filed under Seal
Exhibit B to the David Swetnam-Burland Declaration	Entire document.
The identified portions of NaviStone’s Brief in Opposition to Plaintiff and Defendant New Moosejaw, LLC’s Request for Dismissal:	Pages 5-6, carry-over sentence; and Page 7, footnote 5.

Respectfully submitted,

Dated: February 10, 2021

/s/ David Swetnam-Burland

David W. Bertoni (*pro hac vice*)

dbertoni@brannlaw.com

David Swetnam-Burland (226216)

dsb@brannlaw.com

Eamonn R.C. Hart (*pro hac vice*)

ehart@brannlaw.com

BRANN & ISAACSON

184 Main Street, 4th Floor

P.O. Box 3070

Lewiston, ME 04243-3070

Tel.: (207) 786-3566

Fax: (207) 783-9325

Richard Pachter (120069)

richard@pachterlaw.com

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Attorneys for NaviStone, Inc.